

# **Massachusetts Civil Service Commission**

## **2009 Calendar YTD Statistics Month-Ending February 28, 2009**

### **Highlights**

- The Commission received 28 new discipline, bypass and layoff appeals in February 2009 and closed out the same amount;
- Year-to-date, the Commission has received 52 new discipline, bypass and layoff appeals and closed out 69.
- The total case inventory as of February 28, 2009 was 260; the same as last month, and 121 less than one year ago;
- Two court decisions related to the Civil Service Commission were issued in February 2009. In both cases, the Commission decision was affirmed. Since January 1, 2007, 55 court decisions regarding the Commission have been issued; 49 Commission decisions have been affirmed and 6 remanded or overturned.

Massachusetts Civil Service Commission  
Open Discipline, Layoff and Bypass Cases: Month-End Report

	Feb 08	March 08	April 08	May 08	June 08	July 08	Aug 08	Sep 08	Oct 08	Nov 08	Dec 08	Jan 09	Feb 09
<b>OPEN DISCIPLINE AND LAYOFF CASES</b>	<b>185</b>	174	175	161	152	147	151	141	140	141	144	135	<b>138</b>
<b>OPEN BYPASS CASES</b>	<b>196</b>	184	168	167	160	138	132	120	117	126	133	125	<b>122</b>
<b>TOTAL OPEN DISCIPLINE, LAYOFF &amp; BYPASS CASES</b>	<b>381</b>	358	343	328	312	285	283	261	257	267	277	260	<b>260</b>

3/1/09

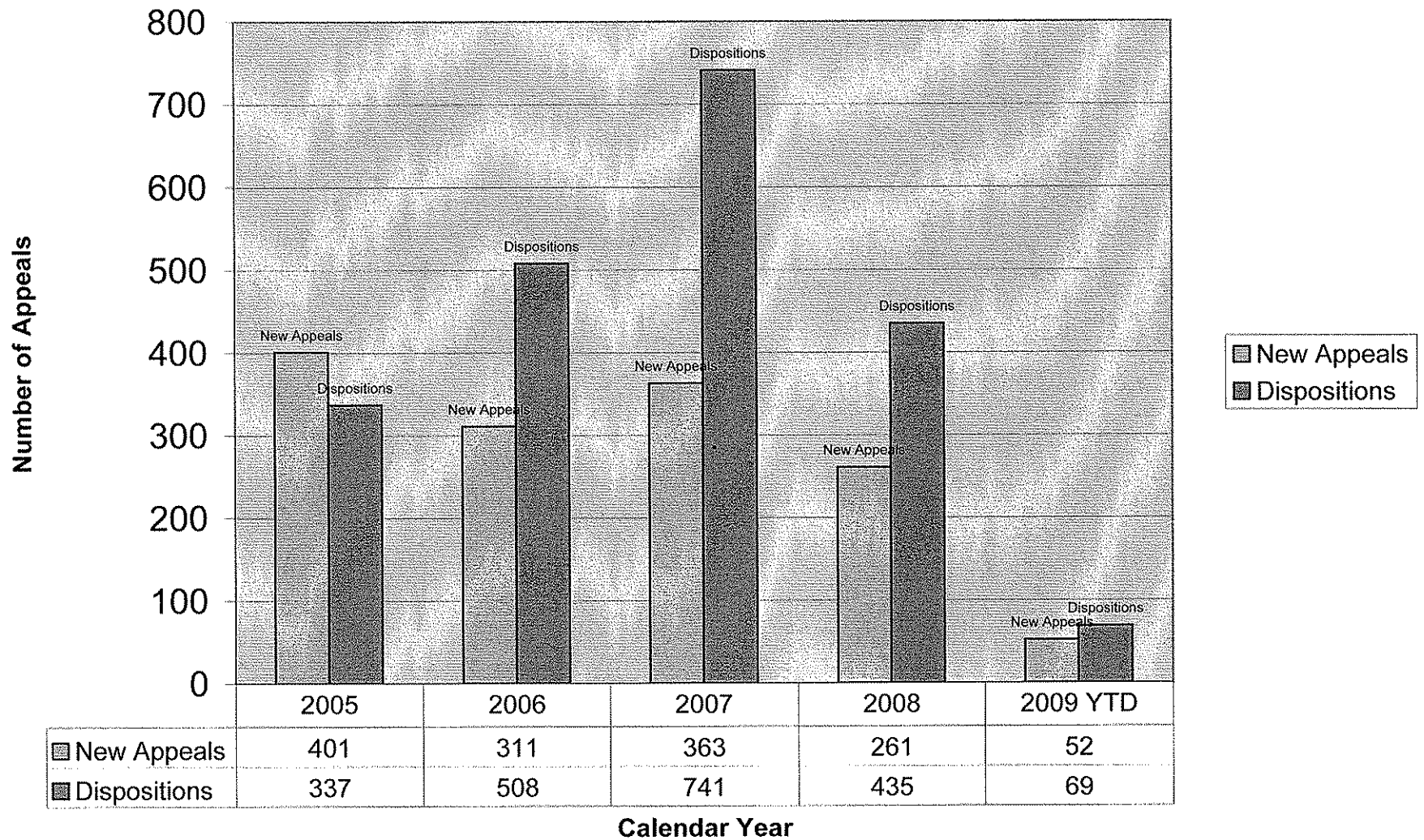
Massachusetts Civil Service Commission  
Open Discipline, Layoff and Bypass Cases: Month-End Aging Report

YEAR APPEAL FILED	Feb 08	March 08	April 08	May 08	June 08	July 08	Aug 08	Sep 08	Oct 08	Nov 08	Dec 08	Jan 09	Feb 09
<b>Pre-2004</b>	17	14	12	11	11	11	12	10	10	10	10	8	8*
<b>2004</b>	17	15	12	9	8	7	7	5	4	4	4	4	4
<b>2005</b>	58	58	48	45	42	36	32	29	25	25	23	22	22
<b>2006</b>	63	58	52	49	46	36	35	22	21	21	21	17	15
<b>2007</b>	191	172	157	139	122	96	86	73	67	64	63	51	48
<b>2008</b>	35	41	62	75	83	99	111	122	130	143	156	135	119
<b>2009</b>	--	--	--	--	--	--	--	--	--	--	--	23	46
<b>Total</b>	<b>381</b>	358	343	328	312	285	283	261	257	267	277	260	<b>260</b>

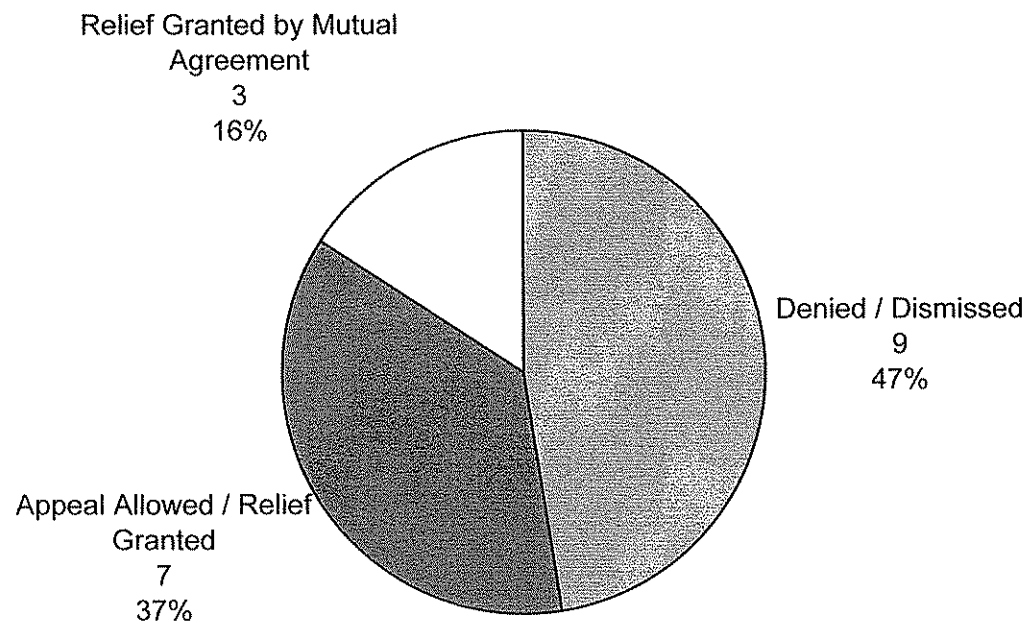
\*All of the pre-2004 cases have been held in abeyance by mutual request of the parties due to a pending federal district court case related to these appeals.

3/1/09

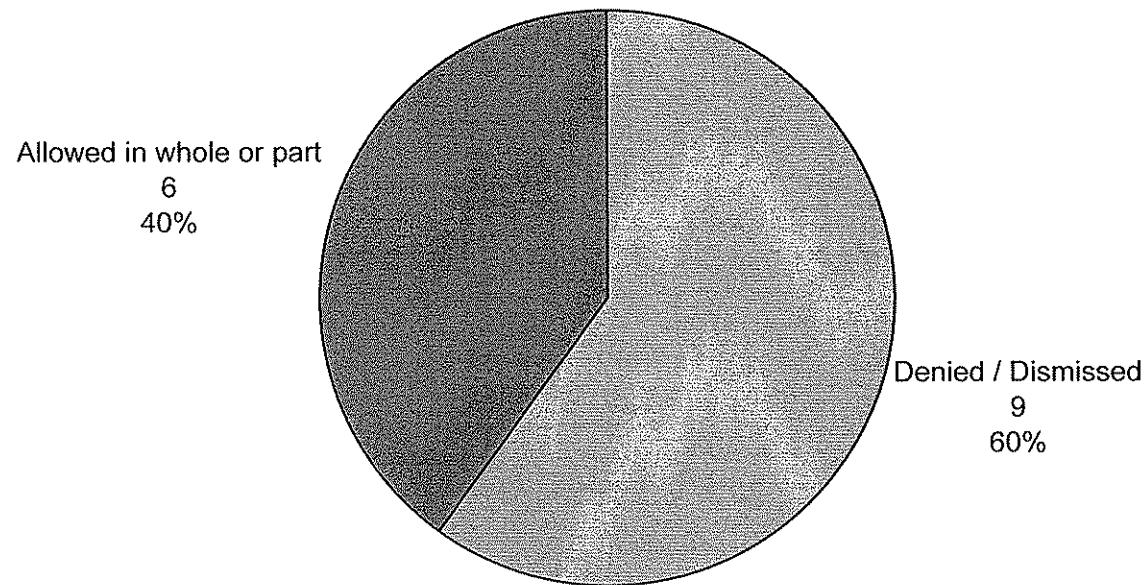
## Discipline, Bypass and Layoff Cases New Appeals Filed v. Dispositions



## 2009 YTD Bypass and Related Appeals Seeking Relief: 19 Decisions



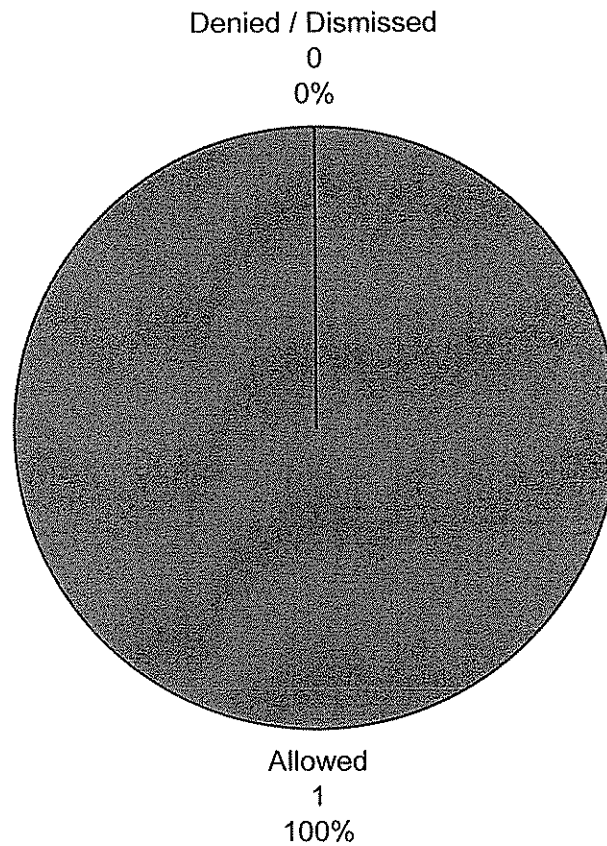
**2009 YTD Disciplinary and Layoff Appeals: 15 Substantive Decisions  
Allowed v. Denied**



3/1/09

CY06: 82% denied; 18% allowed in whole or part; CY07: 85% denied; 15% allowed in whole or part; CY08: 79% denied; 21% allowed in whole or part.

## 2009 YTD Classification Appeals: 1 Substantive Decision Allowed v. Denied



**COURT DECISIONS ISSUED SINCE JANUARY 1, 2007 REGARDING APPEAL OF COMMISSION DECISIONS**  
**NUMBER OF COMMISSION DECISIONS AFFIRMED BY COURT – 49 (89%); OVERTURNED / REMANDED – 6 (11%)**

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
1/5/07	Suffolk Superior (Judge Locke)	8/17/05	Appellant (Bypass Appeal Allowed)	Gaudette v. Town of Oxford	G-02-298	Henderson	<b>Remanded to Commission for de novo hearing</b>  (Appellant failed to appear for remand hearing; appeal was dismissed for lack of prosecution.)	<ul style="list-style-type: none"> <li>Commission conclusion that there was bias not supported by findings;</li> <li>Commission correct in ruling that negative reasons should have been given at time of bypass in this particular case. Court concerned, however, that Commission then proceeded to determine if negative reasons were supported by evidence.</li> </ul>
2/8/07	Suffolk Superior (Judge Walker)	1/28/05	Appointing Authority (Termination Upheld)	Ly v. Lowell Police Department	D-01-1317	Henderson	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Appellant's "Carney Rights" were not violated; issue of whether information was obtained by police department as part of "criminal" investigation or "internal investigation."</li> </ul>
2/21/07	Suffolk Superior (Judge Walker)	2/16/06	Appointing Authority (Termination Upheld)	Loughlin v. City of Fitchburg	D-03-10; D-04-274	Henderson	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Employee was terminated for poor performance, insubordination; rudeness and removing confidential information from files of fellow employees;</li> <li>On appeal to Superior Court, Appellant argued that Commission acted unlawfully by considering illegally obtained evidence (tape-recorded phone conversation);</li> <li>Court ruled that tape was only minimally mentioned in Commission decision and not heavily relied on in making decision;</li> <li>Court referenced credibility determinations made by CSC.</li> </ul>



Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
3/7/07	Suffolk Superior (Judge Fahey)	4/10/04	Appellant (Bypass Appeal Allowed)	Nelson Nahim v. Boston Police Department	G-02-400	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission had allowed bypass appeal. Although 209A issued, it was limited in scope and the circumstances surrounding its issuance were subsequently determined to be suspect.</li> </ul>
3/14/07	Suffolk Superior (Judge Sanders)	11/24/06	Appointing Authority (Termination Upheld)	Pau G. Chafe v. City of Chelsea	D-05-89	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission dismissed disciplinary appeal which was filed four years after termination, far beyond the 10-day filing requirement.</li> </ul>
3/13/07	Suffolk* Superior (Judge Cratsley) *Superior Court Decision affirmed by Appeals Court on 4/25/08	10/3/05	Appointing Authority (Promotional Bypass Appeal Dismissed)	Palmer et al v. Department of Correction	G2-03-438	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Court affirmed Commission's decision that DOC promotions were conducted in accordance with applicable provisions of c. 31.</li> </ul>
3/26/07	Middlesex Superior (Judge Fischman)	3/11/05	Appellant (30-day suspension overturned)	Metzler v. Lowell Public Schools	D-02-860	Taylor	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission overturned 30-day suspension issued to custodian for charges related to sexual harassment;</li> <li>No credible evidence to support charges; case relied heavily on credibility assessments of various witnesses;</li> <li>Court upheld Commission's decision without much comment.</li> </ul>

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4/23/07	Suffolk Superior (Judge Walker)	10/20/06	Appointing Authority (Layoffs upheld)	Porio, Shea & Trachtenberg v. DOR and HRD	D-02-715; D-02-763; D-02-408	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Plight of the Provisionals</li> <li>In regard to layoffs, individuals promoted to provisional positions are considered to have left their permanent position;</li> <li>Court decision centered on whether the SJC decision in Andrews was retroactive to this case (Timberlane exceptions). Court ruled that CSC correctly determined that Andrews case was effective retroactively.</li> </ul>
5/7/07	Suffolk Superior (Judge Cratsley)	6/29/06	Appellant and HRD	Weinburgh v. Haverhill and HRD		Bowman	<b>Reversed</b>	<ul style="list-style-type: none"> <li>Court ruled that Commission (and HRD) were wrong to determine that an individual "shall have been employed" in the next lower position in order to sit for promotional exam, ruling that a retroactive seniority date, previously ordered by the Commission, was sufficient to allow the Appellant to sit for the exam.</li> </ul>
9/4/08	Appeals Court	---	---	---	---	---	<i>Appeals Court Affirmed the Judgment of the Superior Court; Commission and HRD appealing to SJC</i>	
12/7/08	SJC	---	---	---	---	---	<i>SJC denied request for Further Appellate Review</i>	
5/22/07	Suffolk Superior (Judge MacDonald)	4/25/06	Appointing Authority (Termination Upheld)	Dapkis v. Department of Correction	D-02-793	Marquis	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Court affirmed CSC Decision in which it determined DOC had reasonable justification for terminating an employee with a long disciplinary history for falsifying forms regarding an alleged on-duty injury not disturbing the Commission's credibility assessments, which were central to the decision.</li> </ul>

3/1/09; cases do not include default orders that resulted from failure to appear or failure to prosecute appeal.

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6/7/07	Appeals Court	11/5/04	Appointing Authority (Termination Upheld)	Fierimonte v. Lowell Public Schools	D-03-407	Henderson	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Appeals Court ruled that the overwhelming evidence of the Appellant's poor work performance was more than ample to support the Commission's decision.</li> </ul>
6/21/07	Appeals Court	10/9/03	Appointing Authority (Termination Upheld)	Pearson v. Town of Whitman	D-01-1564	Tierney	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Appeals Court ruled that Commission was correct in determining that there was substantial evidence justifying termination</li> </ul>
6/25/07	Plymouth Superior Court (Judge Powers)	4/20/06	Appointing Authority / HRD	Gillis v. City of Boston and HRD	G-02-587	Taylor	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission's decision was not arbitrary or capricious when it determined that Appellant was not eligible for preference authorized by G.L. c.31, s. 26.</li> </ul>
7/6/07	Plymouth Superior Court (Judge McLaughlin)	8/16/05	Appointing Authority (5-day suspension)	Lapworth v. Town of Carver	D-02-417	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission possessed substantial evidence to support its conclusions regarding the Appellant's misconduct.</li> </ul>
7/12/07	Suffolk Superior Court (Judge Troy)	2/16/06	Appellant (termination overturned)	Mullen and McGuinness v. DOC	D-05-53 & D-05-54	Henderson	<b>Vacated / Remanded</b>	<ul style="list-style-type: none"> <li>Commission decision not supported by substantial evidence; was arbitrary and capricious and exceeded Commission's authority.</li> </ul>
8/22/07	Bristol Superior Court (Judge Moses)	3/23/06	Appointing Authority (termination upheld)	Markland v. City of Fall River	D-02-882	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Findings of Commission supported by substantial evidence and were not arbitrary or capricious.</li> </ul>

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9/20/07	Suffolk Superior Court (Judge Hogan)	1/10/06	Appointing Authority (upheld decision to bypass)	Anthony Gaul v. City of Quincy	G-02-673	Taylor	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Appellant was bypassed for reasons related to driving record; 209A; incomplete application; and being a smoker.</li> <li>Commission's decision was "legally sound and was not arbitrary, capricious or an abuse of discretion".</li> </ul>
10/30/07	Bristol Superior Court (Judge Kane)	7/7/05	Appointing Authority (upheld denial of request for reclassification )	Nancy Fournier v. Department of Revenue	C-02-558	DALA	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Substantial evidence for the magistrate to find that Fournier did not perform the duties of the position being sought more than 50% of the time.</li> </ul>
10/30/07	Bristol Superior Court (Judge Kane)	7/7/05	Appointing Authority (upheld denial of request for reclassification )	Theresa Hyde v. Department of Revenue	C-02-334	DALA	<b>Remanded</b>	<ul style="list-style-type: none"> <li>Magistrate erred by relying solely on job duties established by DOR and HRD <u>after</u> the Appellant's request for reclassification was required.</li> <li>Case must be re-heard and decided based upon job duties in place at time of appeal.</li> </ul>
10/30/07	Plymouth Superior Court (Judge Chin)	6/15/06	Appointing Authority (upheld one-day suspension)	Raymond Orr v. Town of Carver	D-02-2	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission did not abuse its discretion when it found that Orr's posting of an offensive cartoon was not activity protected under G.L. c. 150e;</li> <li>Commission did not abuse its discretion by assigning the case to another Commissioner to write decision after a former Commissioner left the Commission;</li> <li>Decision supported by the evidence and not arbitrary or capricious.</li> </ul>

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11/26/07	Suffolk Superior Court (Judge Cratsley)	1/12/07	Appointing Authority and HRD (ruled there was no bypass)	James Verderico v. Boston Police Department	G-02-213	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>On remand, the Commission was directed to determine if the Appellant would still have been "not reachable" on civil service list based on end of consent decree in City;</li> <li>Commission concurred with HRD that Appellant would not have been reachable and hence, there was no bypass;</li> <li>Court concurred.</li> </ul>
12/18/07	Suffolk Superior Court (Judge Brassard)	10/16/06 & 3/15/07	Appointing Authority and HRD (Granted C.S. Permanence to provisional employees and upheld transfer)	BPPA v. City of Boston and HRD	G-06-113; G-07-33; I-07-34	Taylor / Guerin / Bowman / Ittleman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>On this consolidated appeal, the Court upheld all three Commission decisions related to the merger of the Boston Municipal Police Department with the Boston Police Department;</li> <li>Commission correctly determined that union in this case did not have standing;</li> <li>Commission has "significant discretion" in determining what response and to what extent, if at all an investigation under Section 2A is appropriate;</li> <li>The exercise of authority under Chapter 310 is "largely committed, if not entirely committed, to the informed discretion of the Civil Service Commission".</li> </ul>

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1/18/2008	Bristol Superior (Judge Gary Nickerson)	5/18/06	Appointing Authority (Decision not to grant reclassification affirmed)	Daniel Burns v. Department of Revenue	C-03-183	DALA	Affirmed	<ul style="list-style-type: none"> <li>Serving as a “back-up supervisor” did not meet the requirement of the higher classification which specified that the incumbent supervises 1-5 employees;</li> <li>Magistrate’s decision was not arbitrary and was based on substantial evidence.</li> </ul>
1/31/08	Appeals Court	1/3/05	Appointing Authority (Decision not to grant reclassification affirmed)	Anne Hartnett v. Department of Revenue	C-03-184	DALA	Affirmed	<ul style="list-style-type: none"> <li>“Assisting” superiors with certain higher level duties does not mean that the employee had the “authority” to perform the duty.</li> </ul>
2/4/08	Hampden Superior Court (Judge Carhart)	2/16/06	Appellant (Overturning Termination)	Jason Brouillard v. Holyoke Police Department	D-03-130	Henderson	Affirmed	<ul style="list-style-type: none"> <li>Involves issue of probationary employee becoming tenured at end of probationary period absent written notice by the Appointing Authority;</li> <li>Appellant could not be terminated under the provisions of Section 34 as the notice was sent by the Police Chief, not the Mayor (Appointing Authority)</li> </ul>
2/6/08	Suffolk Superior Court (Judge Cratsley)	9/8/06	Appointing Authority (Decision not to grant reclassification affirmed)	Arvanitis & Jacobs v. DOC	C-02-645 & C-02-646	Taylor	Affirmed	<ul style="list-style-type: none"> <li>No memorandum from Court;</li> <li>Commission re-asserted that it does not have jurisdiction over challenges to a <i>reallocation</i> of positions resulting from collecting bargaining agreement</li> </ul>

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3/3/08	Suffolk Superior (Judge Hopkins)	7/27/06	HRD	Shea v. HRD	G1-03-219	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>G.L. c. 31, § 40 does not require HRD to place an employee's name on every employment list for which the employee is remotely qualified. Rather, they are only required to place the employee's name on the list for the permanent civil service position from which the employee was laid off.</li> </ul>
3/12/08	Suffolk Superior Court (Judge Cosgrove)	2/9/07	Appointing Authority (upheld termination)	McCoy v. Town of Wayland	D-05-171	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Court found that: "while progressive discipline is certainly a hallowed precept of labor law, the court is not persuaded that it is necessarily an indispensable prerequisite for dismissal; particularly, where, as here, the violations are serious."</li> <li>The Appellant's undisputed lying and falsification of documents, considered in light of his length of service and prior record as a police officer, sufficed to support this discharge.</li> </ul>
3/17/08	Hampden Superior Court (Judge Carhart)	5/17/07	Appellant (Decision to bypass not justified)	Randolph & Shewchuk v. City of Springfield	G-02-215 & G-02-801	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission's findings that promotions were marked by improper political and community pressure were not arbitrary or capricious.</li> </ul>
3/20/08	Suffolk Superior Court (Judge Brassard)	10/27/06	Appointing Authority (Suspensions upheld)	Ameral & Kiely v. Somerville Police Department	D-03-292 & D-03-289	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>No accompanying memorandum from court;</li> <li>Commission decision concluded that the Appellants were untruthful thus justifying their suspensions.</li> </ul>

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3/31/08	Suffolk Superior (Judge Macdonald)	5/4/06	Appellant (in part) Suspension reduced from 13 months to 8 months	Reilly v. Department of State Police	D-05-382	Marquis Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ The Commission had the Authority to review the Colonel's disciplinary action in general; (G.L. c. 22C, § 13)</li> <li>▪ Modification justified given reasons articulated by Commission in its decision.</li> </ul>
4/29/08	Suffolk Superior (Judge Cratsley)	11/30/06	Appointing Authority (upholding suspension and demotion)	Robert Downer v. Town of Burlington	D-03-188	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ Case involved alleged racial remarks made by Appellant;</li> <li>▪ Court ruled that facts as found by the hearing officer as well as the credibility determinations made by him provide substantial evidence supporting the Commission's decision.</li> </ul>
6/3/08	Middlesex Superior Court (Judge Zobel)	5/26/05	Appointing Authority (upholding termination)	Gregory Ratta v. Town of Watertown	D-02-85	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ Employee was terminated after OUI conviction which followed a drug test failure;</li> <li>▪ Employee argued disparate treatment;</li> <li>▪ Court ruled that: "Absent a showing of motivation akin to selective prosecution – of which the record is bare – Plaintiff cannot, by pointing to other, retained employees, avoid the Town's well-grounded decision to terminate him.</li> </ul>



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6/27/08	Essex Superior Court (Judge Murtagh)	3/23/07	Appointing Authority (upholding termination)	Paul Murphy v. Salem Police Department	D-03-405	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ Court ruled that decision (to uphold termination) was based on “a rational explanation of the evidence presented in three days of hearings and found in the Commissioner’s findings of fact.”</li> </ul>
6/30/08	Suffolk Superior Court (Judge Lauriat)	11/24/06	Appellant (psychological bypass not justified)	Kerri Cawley v. Boston Police Department	G1-06-95	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ The Commission “has not gone so far as to conclude that [the Appellant] is psychologically fit to become a police officer. Instead, the Commission has concluded that [the Appellant] has been deprived of an opportunity to participate in a hiring process that is free from personal bias. This is well within the authority and discretion of the Commission.”</li> </ul>
6/30/08	Suffolk Superior Court (Judge Quinlan)	4/20/07	Appointing Authority (upholding 1-day suspension)	Ronald Fries v. Town of Norwell	D-04-529	DALA	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ The Commission’s decision “was based upon substantial evidence. There was a directive. The plaintiff was aware of the directive. The plaintiff violated that directive without justification or cause...The Commission’s decision was not [arbitrary].”</li> </ul>
7/2/08	Suffolk Superior Court (Judge Holtz)	4/5/07	Appointing Authority (upholding promotional bypass for sergeant)	Mark Zielinski v. City of Everett	G2-04-133	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>▪ No evidence of political considerations in bypass decision;</li> <li>▪ Decision by Commission not arbitrary or capricious.</li> </ul>

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7/16/08	Bristol Superior Court (Judge Moses)	3/6/07	Appointing Authority (upholding original bypass)	Frederick T. Preece, Jr. v. Department of Correction	G1-05-5	DALA	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>G.L. c. 276, s. 100C did not preclude DOC from considering Appellant's CORI as, in light of <u>Globe Newspaper Co. V. Pokaski</u>, the Appellant's records were not sealed. In <u>Globe</u>, First Circuit concluded that the first paragraph of this statute, is unconstitutional. Thus, the Appellant's records were not automatically sealed after the Appellant was found not guilty of murder.</li> <li>In re: admissibility of CORI report: Under G.L. c. 30A, agencies are not required to follow the rules of evidence observed by the courts. Evidence may be admitted and given probative effect if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs.</li> <li>While Appellant was acquitted of the charges in question, the Commonwealth was held to a higher standard of proving its case beyond a reasonable doubt as compared with the standard of preponderance of the evidence that typically applies to a civil case.</li> </ul>

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July 17, 2008	Suffolk Superior Court (Judge Connolly)	6/15/06	Appointing Authority (upheld layoff for lack of funds)	John Oleski v. Department of Mental Health	D-5121	Bowman	Affirmed	<ul style="list-style-type: none"> <li>The Appointing Authority exercised its judgment prior to any crisis existing regarding funding;</li> <li>Its action were based on sound judgment at the time;</li> <li>To require the Appointing Authority to be a Monday morning quarterback makes no sense at all.</li> </ul>
July 24, 2008	Suffolk Superior Court (Judge Cratsley)	5/18/07	Appointing Authority (Dismissal of appeal based on jurisdiction issues)	Rodrigues and Monteiro v. City of Brockton	G1-04-4; G1-04-5; G1-05-212; G1-05-213	Guerin	Affirmed	<ul style="list-style-type: none"> <li>Commission correctly ruled that there was no actual harm to Appellants whose names were not included on civil service list because their scores were too low, as minority candidates, to be included on list.</li> </ul>
July 25, 2008	Suffolk Superior Court (Judge Quinlan)	7/19/07	Appellant (overturned loss of 20 days of accrued vacation)	Rosemarie Hicks v. Department of State Police	D-02-795	DALA	Affirmed	<ul style="list-style-type: none"> <li>Commission does have jurisdiction to hear appeal where the discipline imposed was the loss of accrued vacation time;</li> <li>Since Magistrate reached different conclusion than State Police, <u>Falmouth</u> case does not apply in regard to not being able to modify discipline imposed.</li> </ul>
July 25, 2008	Middlesex Superior Court (Judge Kottmyer)	8/2/07	Appointing Authority (upheld termination)	Scott Nadile v. City of Somerville	D1-07-69	Bowman	Affirmed	<ul style="list-style-type: none"> <li>Commission's decision was supported by substantial evidence;</li> <li>Commission correct in determining no disparate treatment (treating verbal threats and physical acts of violence differently is neither arbitrary or unreasonable)</li> </ul>

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August 13, 2008	Suffolk Superior Court (Judge Giles)	9/7/06	Appointing Authority (upheld 1-day suspension)	William Dwan v. Boston Police Department	D-02-869	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission decision supported by substantial evidence; no error of law; was not arbitrary or capricious.</li> </ul>
August 26, 2008	Suffolk Superior Court (Judge Hines)	5/4/07	Appointing Authority (upholding termination)	Gregory Tanger v. Town of Weymouth	D-05-203	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Commission decision is "amply supported by substantial evidence in the administrative record";</li> <li>Decision was based on a "rational explanation of the evidence".</li> </ul>
September 11, 2008	Suffolk Superior Court (Judge Lauriat)	8/14/06	Appointing Authority (upholding layoffs)	Raymond et al v. Town of Athol	D-04-95-98	Goldblatt	<b>Reversed</b>	<ul style="list-style-type: none"> <li>Commission decision failed to consider the effect of the Fire Chief's improper motivations on the budget process;</li> <li>Fire Chief deprived the Board of Selectmen, Finance Committee and Town Meeting of the ability to make a good faith, non arbitrary determination that its revenues would be insufficient to pay the employees' salaries.</li> </ul>
October 29, 2008	Suffolk Superior Court (Judge Lauriat)	6/5/06	Appointing Authority (upholding termination)	Chin v. City of Boston	D-02-902	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>There was substantial evidence that the Appellant was guilty of misconduct ;</li> <li>Further, Appellant can not broaden the scope of her argument beyond what was presented to the Commission.</li> </ul>

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
10/27/08	Suffolk Superior Court (Judge Henry)	3/28/07	Appointing Authority (reinstatement rights issue)	27 Former Boston Municipal Police Officers v. City of Boston	D1-07-05 – D1-07-31	Bowman Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>The Commission did not commit any error of law in interpreting and applying G.L. c. 31, s. 40.</li> </ul>
11/20/08	Suffolk Superior Court (Judge Connolly)	8/27/07	Appointing Authority (termination upheld)	Robert Grinham v. Town of Easton	D-05-293	DALA	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>The evidence is “literally overwhelming” in support of the findings and decision of the Civil Service Commission...to dismiss Ginham from his position as a police sergeant.</li> </ul>
12/8/08	Suffolk Superior Court (Judge Hines)	8/27/07	Appointing Authority (no jurisdiction to hear appeal related to Boston Cadet Program)	Sean Finn v. Boston Police Department	G1-05-441	Marquis	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>The appointment of (Boston Police) cadets as new police officers, like the appointment of new cadets, is not subject to the civil service law or rules, and a cadet may not seek Commission review regarding the denial or withdrawal of his appointment.</li> </ul>
12/11/08	Suffolk Superior Court (Judge Henry)	11/14/06	Appointing Authority (provisional promotion upheld)	Joan Rainville v. Mass Rehab Commission	G2-06-11	Marquis	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>The Appointing Authority acted in accordance with c. 31 when it made a provisional promotion.</li> </ul>
12/29/08	Suffolk Superior Court (Judge Cratsley)	6/14/07	Appointing Authority (5-day suspension upheld)	Aaron Zachary v. Department of Correction	D-07-52	Marquis	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>Since the Appellant admitted the incident in question took place, there was no question of material fact and no full hearing before Commission was necessary, even where the Appellant argued that he could show at full hearing that he was following procedure.</li> </ul>

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
12/31/08	Suffolk Superior Court	6/28/07	Appellant (termination reversed)	Lamont Davis v. City of Newton	D-06-256	Bowman	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>There has been no showing that the Commission's decision was arbitrary and capricious or based on an error of law.</li> </ul>
1/16/09	Essex Superior Court (Judge Feeley)	7/26/07	Appointing Authority (bypass appeal dismissed due to similar arbitration appeal)	Dennis Carmody & James McDonald v. City of Lynn	G2-07-65 & G2-07-66	Marquis	<b>Remanded</b>	<ul style="list-style-type: none"> <li>Although both the arbitration and the Commission appeals concern the promotional appointment of the City, each raise and address different issues. Hence, the Court overturned the Commission's decision to dismiss the Appellant's appeal and reinstated the Appellant's appeal for the Commission to conduct a bypass hearing.</li> </ul>
1/16/09	Suffolk Superior Court (Judge Lauriat)	11/1/07	Appointing Authority (bypass appeal dismissed – no bypass)	Scott Petersen v. Department of Correction	G2-06-258	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>DOC used time in grade as opposed civil service seniority date when choosing from among tied candidates on civil service list;</li> <li>CSC dismissed appeal as a tie is not a bypass</li> <li>Court affirmed CSC decision and ruled that it was not unreasonable for DOC to use time in grade as opposed to civil service seniority date to break tie.</li> </ul>
2/19/09	Suffolk Superior Court (Judge Rufo)	5/4/07	Appointing Authority (termination upheld)	Dorian Lapworth v. Town of Carver	D-03-341	Guerin	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>A reasonable mind could look at the evidence and come to the same conclusion as the Commission;</li> </ul>

3/1/09; cases do not include default orders that resulted from failure to appear or failure to prosecute appeal.

Date of Court Decision	Court	Date of Commission Decision	Original Commission Decision In Favor Of?	Case Name	CSC Case No.	Commissioner	Court Decision	Issues
2/19/09	Appeals Court	1/10/06	Appointing Authority (upholding bypass decision)	Anthony Gaul v. City of Quincy	G-02-673	Taylor	<b>Affirmed</b>	<ul style="list-style-type: none"> <li>The evidence that Gaul smoked, which was supported in the record, alone justified the City's decision (to bypass the applicant)</li> </ul>